

July 1, 1933.

Mr. Marcellus Johnson, Pres.,  
Glendale Irrigation Company,  
Glendale, Utah.

Dear Sir:

RE: LONG VALLEY DIST.

We are in receipt of your letter of June 25th, and am happy to learn that you are in accord with the idea of appointing an Adjudicating Committee to represent your section of the River. We also note your willingness to cooperate in any way that will help the water users, who are always in need of a helping hand.

I am sure Mr. Joseph F. Smith, the gentleman you have appointed to represent you on this committee is in a position where he can lend considerable assistance. As soon as the three companies have made there final recommendations we will further perfect the organization.

In answer to your questions asked in your above referred to letter I need not remind you that the waters of the Virgin River System were recently decreed from the St. George and Washington Canal Company, plaintiff, vs. Hurricane Canal Company, defendant, in a general adjudication which did away with all previous decrees.

In said decree I am unable to find reference to a water right from Factory Lake, "Chamberlain Lake". If Chamberlains actually have a valid right to waters from this lake they may change the place of diversion or place of use and may use the water for other purposes than those for which it was originally appropriated, but no such change shall be made, if it impairs vested rights, without just compensation; no change of point of diversion, place or purpose of use shall be made except on the approval of an application of the owner by the State Engineer. Before the approval of an application the State Engineer must, at the expense of the applicant, to be paid in advance, given notice



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thereof by publication in some newspaper having general circulation within the boundaries of the river system or near the water source in which the point of diversion of the water is located; such notice shall give the name of the applicant, the quantity of water involved, the stream or source from which the appropriation has been made, the point on the stream or source where the water is diverted, the point to which it is proposed to change the diversion of the water, the place, purpose and extent of present use, and the place, purpose and extent of proposed use. Said notice to be published at least once a week for a period of four weeks. Any person, corporation or association interested may at any time within thirty days after the completion of the publication of said notices, file with the State Engineer a protest against the granting of said application for change of point of diversion, place or purpose of use, stating the reasons therefor, which shall be duly considered by the State Engineer, who shall approve or reject said application for change of point of diversion, place, or purpose of use. Such application shall not be rejected solely for the reason that such change would impair vested rights of others, but the application if otherwise proper may be approved conditionally upon such conflicting rights being acquired. The determination of the State Engineer shall be final unless appeal is taken to the district court within sixty days of written notice to applicant of action of the State Engineer. Any person holding an approved application for the appropriation of water may change the point of diversion, place or purpose of use under proceedings taken substantially as above set forth.

Sec.9 - Flow of appropriated waters - share expenses of loss- stored water. Upon application in writing and approval of the State Engineer, any appropriated water may be turned into the channel of any natural stream or natural body of water, or into a reservoir constructed across the bed of any natural stream, and commingled with its waters, and then be taken out, either above or below the point where emptied into the stream body of water or reservoir, but, in so doing, the original water in such stream, body of water or reservoir must be deteriorated in quality or diminished in quantity, and the additional water turned shall bear its share of loss by evaporation and seepage and of the maintenance of said reservoir, and an equitable proportion of the cost of the reservoir site and of the construction. Any person, corporation, or association having stored his or its appropriated water in a reservoir for a beneficial purpose shall be permitted to withdraw the same at such times and in such quantities as necessity may require.

Hoping this answers your question, I remain,

Yours very truly,

T. H. Humpherys,  
STATE ENGINEER.

RJ/c